

## REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, the Applicant would like to thank the Examiner for the indication that claims 14-24, 26, and 28 contain allowable subject matter.<sup>1</sup>

Furthermore, the Office Action Summary page of the Official Action, incorrectly lists claims 1-18 as pending in the application. Applicant respectfully submits that claims 14-28 were pending in the application. As discussed below, claims 1-13 were canceled by preliminary amendment and claims 25 and 27 are canceled herein. Therefore, claims 14-24, 26, and 28 are now pending in the application.

In the Official Action, the Examiner rejects claims 1-13, 25, and 27 under 35 U.S.C. § 101 for double patenting. Specifically, the Examiner argues that claims 1-13, 25, and 27 are the same as claims 1-3<sup>2</sup> of prior U.S. Patent No. 6,682,199. The Applicant respectfully submits that claims 1-13 were canceled in the Preliminary Amendment filed on September 9, 2003. Furthermore, claims 25 and 27 have been canceled.

Thus, the Applicant respectfully requests that the rejection of claims 1-13, 25, and 27 under 35 U.S.C. § 101 be withdrawn.

In the Official Action, the Examiner rejects claims 1-25 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues

---

<sup>1</sup> The Office Action mistakenly includes claim 25 as having allowable subject matter. However, claim 25 has been rejected under 35 U.S.C. 101.

<sup>2</sup> The Office Action mistakenly rejects claims 1-13, 25, and 27 in light of claims 1-3 of prior U.S. Patent No. 6,682,199. Such rejection should be in light of claims 1-13 of prior U.S. Patent No. 6,682,199.

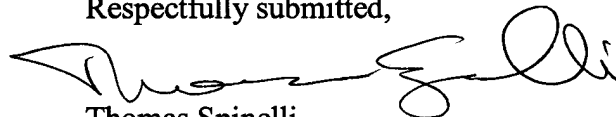
that the limitation "said third electrode" in line 18 of claim 14 has no antecedent basis in the claim.<sup>3</sup>

In response, claim 14 has been amended to change "said divided second or third electrode" to "--said divided second electrode--". The amendment to claim 14 is fully supported in the original disclosure, particularly in the specification at pages 40-42 (sixth embodiment). Therefore, no new matter has been entered into the disclosure by way of the present amendment to claim 14.

Accordingly, it is respectfully requested that the rejection of claim 14 under 35 U.S.C. § 112, second paragraph, be withdrawn.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli

Registration No.: 39,533

Scully, Scott, Murphy & Presser  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
TS:cm

---

<sup>3</sup> It appears that the Examiner is referring to claim 14 as it appears at the end of the specification and not as it appears in the Preliminary Amendment. The limitation "said third electrode" appears at line 13 of claim 14 in the Preliminary Amendment.